



CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

**NOTICE OF A CONSOLIDATED PUBLIC HEARING CALLED ON AN EMERGENCY BASIS  
TO CONSIDER AMENDMENTS TO THE STABILIZATION AND MARKETING PLANS FOR  
MARKET MILK FOR THE NORTHERN AND SOUTHERN CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture (Department) is calling a consolidated public hearing on an emergency basis to consider amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Plans).

**Hearing Date, Place, and Time** - The hearing will be held on November 9, 2009. The hearing will begin at 8:30 a.m. in the Department Auditorium, 1220 N Street, Sacramento.

The hearing is called pursuant to Articles 4 through 9, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). The hearing noticed herein will be conducted in accordance with the procedures prescribed in 3 CCR 2080.4.

**Petition Received by the Department** – On October 5, 2009, the Department received a petition from The Alliance of Western Milk Producers (Alliance) requesting an emergency public hearing to consider amendments to the Plans. The Alliance petition proposes to permanently increase the current Class 1, 2, and 3 prices. On October 16, 2009, the Department received a petition from Western United Dairywomen (WUD) requesting an emergency hearing to consider amendments to the Plans. The WUD petition proposes to temporarily increase the current Class 1, 2, 3, 4a, and 4b prices for a period of six months.

These petitions were considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. A copy of the petitions can be obtained by accessing the Department's web site at [www.cdffa.ca.gov/dairy](http://www.cdffa.ca.gov/dairy) or by contacting the Dairy Marketing Branch at (916) 341-5988. The web site information can be accessed from the dairy home page, by clicking on *Hearing Matrix*; then go to *Emergency Hearing – All Classes – Nov. 9, 2009*.

**Call of Hearing** – The Alliance petition cited 2009 as thus far being one of the most challenging and devastating years endured by dairy producers. It indicated that the near financial ruin brought about by low milk prices and high production costs has caused droves of producers to exit the business. The WUD petition cited that California dairy families have suffered severe economic hardship in 2009, have gone out of business or acquired massive debt on top of eroded equity, and have been placed in a financial situation that will take years to repair. The hearing will consider the Alliance proposal for permanent increases in the current Class 1, 2, and 3 prices and the WUD proposal for temporary increases in the current Class 1, 2, 3, 4a, and 4b prices. The hearing will also consider any other temporary or permanent changes to the Class 1, 2, 3, 4a, and 4b pricing formulas to address emergency conditions that are raised by alternative proposals received in the time and format specified below. The hearing will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans. (Reference Article III, Section 300, Paragraphs (A), (B), (C), (D), (E), and (H) of the Plans.)

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21 and the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062 and 62076.



**Alternative Proposals** – All interested parties are entitled to submit proposals detailing permanent or temporary alternative adjustments in the Class 1, 2, 3, 4a, and 4b pricing formulas. Alternative proposals must be signed by a responsible party and arrive at the Department's Dairy Marketing Branch no later than 4:00 p.m. on Wednesday, October 28, 2009. The Dairy Marketing Branch's office location is the Downtown Plaza, 560 J Street, Suite 150, Sacramento. The Department strongly encourages all alternative proposals to be sent electronically via email to [dairy@cdfa.ca.gov](mailto:dairy@cdfa.ca.gov) or faxed to (916) 341-6697 to ensure they arrive in a timely manner. Alternative proposals may be mailed to Hearing Officer, c/o CDFA Dairy Marketing Branch, 1220 N Street, Sacramento, CA 95814, but five (5) business days in addition to normal mailing times should be allotted if mailed.

**Public Workshop** – Because of the emergency nature of the hearing, no public workshop is scheduled. Prior to the hearing, the Department will endeavor to post to its website background information and analysis of the petitions and only those alternative proposals submitted by the October 28, 2009 deadline.

The Department's entire hearing exhibit for this hearing will be available for public inspection at the Dairy Marketing Branch office on November 2, 2009.

At the hearing, the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits shall provide the Hearing Officer at the hearing seven (7) copies of such documents for the official record, as well as one (1) copy for the court reporter.

Copies of the transcripts of testimony received at the hearing will not be available for distribution via the Department, but are available for inspection at the Dairy Marketing Branch. If interested parties wish to purchase copies, arrangements may be made with the reporting service at the hearing.

**Final Decisions resulting from the Hearing** - The final decisions resulting from this hearing will be issued in accordance with the procedures and criteria contained in Chapter 2 of Division 21 of the FAC, as necessary.

The Department's decision will include consideration of all relevant economic factors including, but not limited to, the following:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to combined income from those classes, in relation to cost of production and marketing for all purposes including manufacturing;
- Whether prices will ensure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;
- Whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other; and
- Whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62062, 62063, 62074.5, 62076 and 62077.


**Ex Parte Communications Prohibited** - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

If any interested party has questions regarding the call of this hearing, please contact Dave Ikari at (916) 341-5988.

Media contacts and publication staff are asked to contact the Department's Public Affairs Office by e-mail at [cdafpublicaffairs@cdfa.ca.gov](mailto:cdafpublicaffairs@cdfa.ca.gov) or by phone at (916) 654-0462.

All interested persons are invited to attend and participate in the hearing. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of this hearing.

**Persons with Disabilities** - The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Annie AcMoody at (916) 341-5988 or TDD (800) 735-0193 at least five days before the hearing date.

  
Will Brown, Undersecretary

Date 10.17.09